

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF 09od-019

OAHU

Resubmittal - Consent to Assign General Lease No. S-3856, (1) Hemaloto Alatini and Leona Alatini, Assignor; Hemaloto Alatini, Assignee; (2) Hemaloto Alatini, Assignor, to Aisea Vulangi, Assignee, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-024:023.

APPLICANT:

(1) Hemaloto Alatini and Leona Alatini, Assignor; Hemaloto Alatini, Assignee.

(2) Hemaloto Alatini, as Assignor, to Aisea Vulangi, married, tenant by severalty, whose mailing address is 7421 Mokuhanu Place, Honolulu, Hawaii 96825, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waimanalo situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-024:023, as shown on the attached map labeled Exhibit A.

AREA:

9.474 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CHARACTER OF USE:

Diversified agriculture purposes.

TERM OF LEASE:

55 years, commencing on August 10, 1964 and expiring on August 9, 2019. Last rental reopening occurred on August 10, 2008; next rental reopening is scheduled for August 10, 2018.

ANNUAL RENTAL:

\$10,000.00 due annually.

CONSIDERATION:

\$ 150,000.00.

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

Individual. Not applicable.

REMARKS:

The Board deferred the request from its April 24, 2009 meeting to allow the assignee obtain documentation regarding the abandonment of Leona Alatini's interest in the subject lease pursuant to her bankruptcy proceeding.

The trustee for Leona Alatini's bankruptcy proceeding advised that the final decree was issued on January 13, 2009 and noted on the docket for the bankruptcy, which closed the case and the estate. Staff has discussed the case with the Department of the Attorney General and understands that the Notice of Proposed Abandonment of Property" dated February 3, 2009 (Exhibit B) is technically moot because it was issued after the case was closed. There was no separate document issued for the final decree. Staff brings the case as described in the Background Section to the Board for consideration.

BACKGROUND:

General Lease No. (GL) 3856 was sold at a public auction in 1964 for diversified agriculture purposes. Through subsequent assignments, the current lessees are Hemaloto Alatini & Leona Alatini.

During the recent petition to the bankruptcy court filed by Leona Alatini, staff discovered that she has divorced from Hemaloto Alatini. By the "Notice of Proposed Abandonment of Property" dated February 3, 2009 (Exhibit B), the bankruptcy trustee proposed to abandon Leona Alatini's interest in the subject lease. Mr. John Carroll, attorney representing the assignee, advised the staff that no hearing has been requested for the said notice. Staff understands that it leaves Hemaloto Alatini as the sole lessee of the subject lease. Meanwhile, Hemaloto Alatini plans to sell his lease interest.

Before moving to Hawaii, the assignee had obtained his education and farming experience in Tonga. In his business plan, he targets the Polynesian food market as his main source of income. The assignee, owns a landscaping company called Loves Landscaping Co., Inc., and he plans to grow landscape product on the subject parcel to supplement its ongoing landscaping business. He plans to bring his farming and business knowledge onto the subject State parcel. The assignee fully understands that he cannot use the subject parcel as a baseyard for his landscaping business, because a baseyard is a violation of the character of use. Baseyard activities shall include but is not limited to the following: parking, washing, and repair of vehicles used for landscaping maintenance operation, accepting from customers and distributing to employee orders for landscaping maintenance works. Assignee has rented a parcel in Pearl City Industrial Park for his baseyard operation. A copy of the rental agreement is kept in the file.

The lessee is in compliance in terms of rent and performance bond, but he does not have current liability insurance. The assignee understands that he has to furnish the Department with the required liability insurance once the Board approved the request.

Assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

For documentation purposes, staff recommends the Board consent to the assignment from Hemaloto Alatini and Leona Alatini to Hemaloto Alatini. Leona Alatini will execute a document to release or quitclaim her interests to Hemaloto Alatini. Such assignment is followed by the consent to the assignment from Hemaloto Alatini to Aisea Vulangi. Staff believes these actions will provide a record for transfer of interest in the subject lease. There are no other pertinent issues or concerns, including rental reopening.

Staff discussed the request with the Department of Agriculture who has no objection to the proposed transfer. Staff did not solicit comments from other governmental agencies as the proposed use is not different from the current use of the property.

RECOMMENDATION: That the Board:

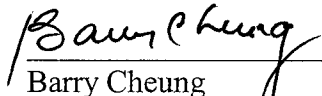
- A. Consent to the assignment of General Lease No. S-3856 from Hemaloto Alatini and Leona Alatini, as Assignor, to Hemaloto Alatini, as Assignee.

May 8, 2009


B. Consent to the assignment of General Lease No. S-3856 from Hemaloto Alatini, as Assignor, to Aisea Vulangi, as Assignee, subject to the following:


1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

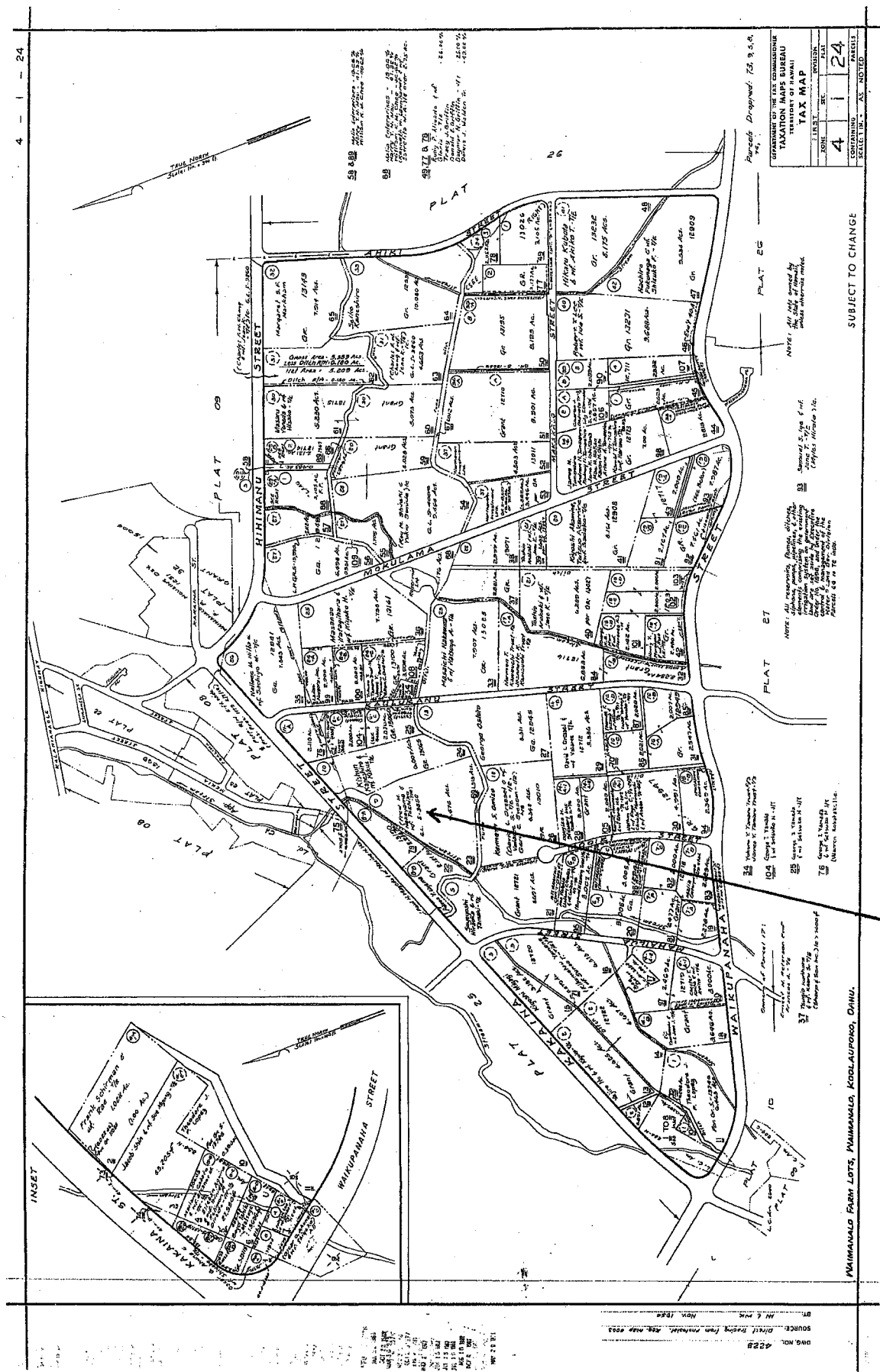
Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 



Name, Address, Phone, Fax, Email Address of Filer:

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Debtor: Leona Alatini

Chapter 7

Case No.: 08-01489

Hearing will be held only if requested.

Deadline to file a request:

Joint
Debtor:

Date: FEBRUARY 3, 2009

NOTICE OF PROPOSED ABANDONMENT OF PROPERTY

NOTICE IS HEREBY GIVEN that the Trustee or Debtor in Possession is proposing to abandon property of the bankruptcy estate. Abandonment means that the property is being returned to the Debtor because the property cannot be liquidated for the benefit of creditors. The reason(s) for abandonment are stated below.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to approve the proposed abandonment that is described below, or if you want the court to consider your views on this matter, then on or before 15 days after the filing date of this notice, you or your attorney must file with the court, at the address shown below, an objection or a written request for a hearing. You must also mail a copy to the address in the upper left corner of this notice. If you mail your objection or request to the court for filing, you must mail it early enough so the court will receive it on or before the deadline stated here.

United States Bankruptcy Court
District of Hawaii
1132 Bishop Street, Suite 250L
Honolulu, HI 96813

Deadline to file an objection/request for hearing:
(15 days after date notice is filed unless time shortened)

Date: FEBRUARY 3, 2009

If the court schedules a hearing, you will receive a separate notice of the hearing date and time. If you or your attorney do not file an objection or a request for a hearing, the court may decide that you do not oppose the proposed abandonment and may enter an order approving the transaction.

Description of Property:
(specific identification
required, e.g. TMK, VIN)

Waimanalo Farm

Estimated Fair Market
Value; Basis for Valuation:

\$150,000.00

List any Liens or
Interests in the Property:

Bank of Hawaii Lien (approximately \$80,000.00)

*Reason(s) for
Abandonment:*

- ☐ Inconsequential value: there is little or no equity in the property for the estate.
- ☐ Inconsequential benefit to the estate: costs of collection or litigation will likely exceed any recovery.
- ☐ Preservation of the asset is burdensome to the bankruptcy estate.
- ☒ Other:
Debtor has no right, title or interest in or to Subject Property. Her former ownership interest was relinquished through Divorce.

Other Details:

Affidavit of Leona Alatini (attached hereto)
Divorce Decree (attached to Affidavit as Exhibit "A")

Dated: JANUARY 24, 2009

/s/ David C. Farmer
Trustee/Debtor in Possession/Attorney